

## **REMARKS**

### **A. Status of the Claims**

Claims 51-71 are pending. Claims 51, 61, and 71 are independent.

### **B. Summary of the Final Office Action mailed December 01, 2009**

In the Final Office Action mailed December 01, 2009 ("Final Office Action"), the Examiner: (i) rejected claims 51-55, 59-65, and 69-70 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,381,603 to Chan ("Chan"); (ii) rejected claims 56 and 66 under 35 U.S.C. § 103(a) as being allegedly obvious in view of Chan; and (iii) rejected claims 57, 58, 67, and 68 under 35 U.S.C. § 103(a) as being allegedly obvious in view of Chan and U.S. Patent 6,252,544 to Hoffberg ("Hoffberg").

### **C. Explanation of the Claim Amendments**

Applicants submit that the previously pending claims were allowable over Chan for at least the reasons set forth in Applicants' Response filed on September 22, 2008. But without conceding the merits of the rejections, and in an earnest attempt to advance prosecution and ease the burden of examination, Applicants have amended claims 51-55, 57, 59-65, 67, and 69-71 to further clarify the claim language. The subject matter of the amendments can be found generally throughout the specification, including but not limited to paragraphs [0005], [0007], [0022], [0024 - 0026], and [0032] of Applicants' Patent Application Publication US 2004/0302600. No new matter has been added.

### **D. Response to the §§ 102(e) and 103(a) Rejections based on Chan and Hoffberg**

Independent claims 51, 61, and 71 are rejected as allegedly anticipated by Chan. (Final Office Action, pp. 2-4) The remaining claims are rejected as allegedly obvious based on Chan

alone or in combination with Hoffberg. (Final Office Action, pp. 4-5) In response, Applicants submit that the rejections are improper and should be withdrawn for at least the reason that Chan and Hoffberg do not disclose, teach, or suggest each of the recited claim elements. As a result, Chan does not anticipate the claims under 35 U.S.C. § 102, as set forth in MPEP § 2131, and any obviousness rejection based on Chan and Hoffberg alone would necessarily lack the factual underpinnings required to establish *prima facie* obviousness under 35 U.S.C. § 103(a), as set forth in MPEP § 2142. At a minimum, Chan and Hoffberg, individually or in combination, fail to disclose, teach, or suggest at least “initiating the transmission of data from at least one of the information sources to a communications device if the communications device’s indicated geographic position changes from a first position that is greater than a predefined distance from a geographic region associated with the at least one information source to a second position that is within a predefined distance from a geographic region associated with the at least one information source,” as recited in representative independent claim 51.

1. **Chan does not disclose, teach, or suggest “initiating the transmission of data from at least one of the information sources to a communications device if the communications device’s indicated geographic position changes from a first position that is greater than a predefined distance from a geographic region associated with the at least one information source to a second position that is within a predefined distance from a geographic region associated with the at least one information source.”**

Instead of “initiating the transmission of data...if the communications device’s indicated geographic position changes from a first position...to a second position,” Chan sends search results to an end-user’s computer when a search query is received from the end-user’s computer. (Chan, Abstract; FIGS. 4-6, 10-12, and 16-21; col. 2, lines 54-64; col. 4, line 62 - col. 5, line 6, etc.) In particular, Chan describes “the use of a computer system 10 to access [a] merchandise database 14 to provide a user with merchandise information within a given area.” (Chan, col. 4,

lines 62-65) After receiving various inputs from the user (e.g., “where the user would like to search for merchandise,” “the searching area constraint,” “search criteria,” “price range,” etc.), the end-user’s computer “organizes the received input, position, searching area constraint, search criteria, and price range as a query and sends it to....computer system 10” whereupon computer system 10 uses the query to search database 14 and return search results to the end user’s computer. (Chan, col. 5, line 57 - col. 7, line 27) Chan describes other embodiments for searching for events and people. (Chan, col. 7, line 43 - col. 10, line 48 (events); col. 10, line 49 - col. 13, line 34 (people)) But because each of Chan’s disclosed embodiments sends search results to an end-user’s computer when a search query is received from the end-user’s computer instead of “initiating the transmission of data...if the communications device’s indicated geographic position changes from a first position...to a second position,” Applicants submit that Chan fails to disclose, teach, or suggest “initiating the transmission of data from at least one of the information sources to a communications device if the communications device’s indicated geographic position changes from a first position that is greater than a predefined distance from a geographic region associated with the at least one information source to a second position that is within a predefined distance from a geographic region associated with the at least one information source,” as recited in representative claim 51.

2. **Hoffberg does not disclose, teach, or suggest “initiating the transmission of data from at least one of the information sources to a communications device if the communications device’s indicated geographic position changes from a first position that is greater than a predefined distance from a geographic region associated with the at least one information source to a second position that is within a predefined distance from a geographic region associated with the at least one information source.”**

The addition of Hoffberg does not overcome the deficiencies of Chan because Hoffberg also fails to disclose, teach, or suggest “initiating the transmission of data from at least one of the

information sources to a communications device if the communications device's indicated geographic position changes from a first position that is greater than a predefined distance from a geographic region associated with the at least one information source to a second position that is within a predefined distance from a geographic region associated with the at least one information source," as recited in representative claim 51. Indeed, the Final Office Action does not cite Hoffberg as teaching this aspect of the claims, and Applicants' review of Hoffberg found no teaching or suggestion of this aspect of the claims.

### **3. Claims 51-71 are Allowable over Chan and Hoffberg**

Because Chan and Hoffberg, individually or in combination, fail to disclose, teach, or suggest at least "initiating the transmission of data from at least one of the information sources to a communications device if the communications device's indicated geographic position changes from a first position that is greater than a predefined distance from a geographic region associated with the at least one information source to a second position that is within a predefined distance from a geographic region associated with the at least one information source," as recited in claim 51, Applicants submit that: (i) Chan does not anticipate claim 51; (ii) Chan, alone or in combination with Hoffberg, does not render claim 51 obvious; and (iii) claim 51 is therefore allowable over Chan and Hoffberg. And because claims 61 and 71 recite elements similar to those recited in claim 51, Applicants further submit that claims 61 and 71 are likewise allowable over Chan and Hoffberg for at least the same reasons as claim 51.

Additionally, and without conceding the merits of the other assertions set forth in the Final Office Action, Applicants submit that dependent claims 52-60 and 62-70 are also allowable over Chan and Hoffberg for at least the reason that they depend from allowable independent claims.

**E. Conclusion**

Applicants submit that the present application is in condition for allowance, and Applicants respectfully request a Notice of Allowance. If the Examiner feels that further dialog would advance the application to allowance, the Examiner is invited to telephone the undersigned at (312) 913-0001.

Respectfully submitted,  
McDonnell Boehnen Hulbert & Berghoff LLP

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By: /Jeffrey P. Armstrong/  
Jeffrey P. Armstrong  
Reg. No. 54, 967